

1 Michael D. Gutierrez #V68887  
2 P.V.S.P A4-141  
3 P. O. Box 8501  
4 Coalinga, CA 93210

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Petitioner in Propria Persona

**FILED**

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RICHARD W. WIEKING  
CLERK  
U.S. DISTRICT COURT  
NO. DIST. OF CA. S.J.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

MICHAEL DAVID GUTIERREZ,

Petitioner in Propria Persona,

vs.

JAMES A. YATES, WARDEN,  
DEPARTMENT OF CORRECTIONS,  
PLEASANT VALLEY STATE PRISON,

Defendants.

CASE NO. 5:07-CV-03668-RMW

**DECLARATION OF ROBERT  
MENDOSA IN SUPPORT OF  
MOTION FOR PERMISSION TO E-  
FILE DOCUMENTS**

[Filed Concurrently with Notice of  
Motion; Memorandum of Points and  
Authorities; Declaration of Michael David  
Gutierrez; and Proposed Order]

Date: July 14, 2007  
Time: 9:00 a.m.  
Judge: Hon. Ronald M. Whyte  
CourtRoom: 6

I, Robert Mendosa declare as follows:

1. I have personal knowledge of the matters stated herein, and if called upon to  
testify, I would and could competently do so.

2. I was approached by Michael David Gutierrez's family to assist him in  
challenging his state court conviction pending in federal court. Mr. Gutierrez is my  
paternal second cousin.

3. I reviewed the court docket in the pending action and noted that

**DECLARATION OF ROBERT MENDOSA IN SUPPORT OF  
MOTION FOR TO PERMISSION TO E-FILE DOCUMENTS**

ORIGINAL

1 simultaneous to filing the pending writ of habeas corpus, Mr. Gutierrez filed a Motion to  
2 Proceed in Forma Pauperis and a Motion for Appointment of Counsel in the instant  
3 action.

4 4. Upon contacting Mr. Gutierrez, I informed him that it might be advisable to  
5 wait until the court ruled on his pending Motion for Appointment of Counsel before  
6 offering to assist him with the instant action. I further advised Mr. Gutierrez that I was  
7 not a lawyer and suggested that it would be prudent to for him seek the assistance of a  
8 qualified member of the State Bar of California to assist him in prosecuting the instant  
9 federal action.

10 5. On February 11, 2008 the court denied Mr. Gutierrez's Motion for  
11 Appointment of Counsel. Upon the Court's denial of Mr. Gutierrez's Motion for  
12 Appointment of Counsel, I offered to assist Mr. Gutierrez in having documents filed with  
13 the court. I qualified my offer of assistance by stating, that I could not provide Mr.  
14 Gutierrez with legal advice since I was not licensed to practice law in the State of  
15 California. I informed Mr. Gutierrez as to what I felt to be the benefits and drawbacks of  
16 electronically filing documents and suggested that in order to properly assist him, the most  
17 efficient and economical method of filing documents in the instant action would be by  
18 electronic means, (i.e., e-filing). As such, Mr. Gutierrez authorized me open an email  
19 account for sole and exclusive purpose of communicating with the court and retrieving  
20 court documents. That email account is listed as: gutierrezdm100@yahoo.com.

21 6. Mr. Gutierrez has authorized me to electronically file documents with the  
22 court, retrieve any documents in the instant action from the PACER system and further  
23 granted me to access such any and all documents related to the instant action which may  
24 be sent to the email address listed above.

25 7. It should be noted that I reside in Alhambra, California (Southern  
26 California) while Mr. Gutierrez is incarcerated in Coalinga (Northern California). As  
27 such, I believe that electronic filing would be the most practical, economical and efficient  
28 method of filing documents with the court in this particular instance.

1           8.     I regularly e-files documents in the Northern District (under the supervision  
2 of attorney), as well as in other state and federal courts. I maintain a Public Access to  
3 Electronic Records ("PACER") account and am familiar with filing, searching and  
4 retrieving documents from the federal Case Management/Electronic Case Files  
5 ("CM/ECF") system as well as PACER. Additionally, I possess all the necessary  
6 hardware and software to allow me the ability to e-file documents with the Court and  
7 retrieve documents from PACER.

8           9.     Upon review of file materials submitted in the instant action as well as the  
9 underlying appeal, it is my belief that Mr. Gutierrez brings this action in good faith and  
10 believe that his claim has merit.

11          10.    I further believe that with my assistance, Mr. Gutierrez can fully comply  
12 with any and all e-filing requirements that the court imposes on the parties to this  
13 litigation.

14          I declare under penalty of perjury under the laws of the United States that the  
15 foregoing is true and correct to the best of my knowledge and belief.

16               Executed this 16 day of June 2008 in the City of Coalinga, State of  
17 California.

18          DATED: June 16, 2008

19          By: \_\_\_\_\_



Robert Mendosa

**DECLARATION OF SERVICE BY U. S. MAIL**

*Gutierrez v. Yates*, Case No. C 07-3668 RMW (PR)

I declare:

I am presently incarcerated at Pleasant Valley State Prison. I am over the age of 18, and a party to the within action. My address is: A-4-141, Box, 8501, Coalinga, California.

On June 23, 2008, I served the foregoing document described as:

**DECLARATION OF ROBERT MENDOSA IN SUPPORT OF  
MOTION FOR TO PERMISSION TO E-FILE DOCUMENTS**

on the interested parties by U. S. Mail a true copy as follows:

Attorneys for Respondent

EDMUND G. BROWN JR., Esq.  
Attorney General of the State of  
California


DANE R. GILLETTE., Esq.  
GERALD A. ENGLER., Esq.  
GREGORY A. OTT., Esq.  
ALLEN R. CROWN., Esq.  
455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004  
Telephone: (415) 703-5847  
Fax: (415) 703-1234

☒ **VIA U.S. MAIL:** ☒

On June 23, 2008, at , California, I deposited the above described document, with the U.S. postal service with postage thereon fully prepaid and addressed to the parties listed above.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and was executed on June 23, 2008 at Coalinga, California.

Michael D. Gutierrez  
Type or Print Name

  
Signature



THIS MAIL GENERATED FROM  
PLEASANT VALLEY STATE PRISON

# First Class Mail

MICHAEL D. GUTIERREZ #V68887  
P.V.S.P.A. 2-150  
P.O. BOX 8501  
COALINGA, CA 93210

## LEGAL MAIL

United States District Court  
Northern District of California  
Attn: Court Clerk - Filing Window  
280 South 1st Street  
San Jose, CA 95113

TO:

THIS MAIL GENERATED FROM